

- SUBJECT:** Revising the landowner's bill of rights
- COMMITTEE:** Land and Resource Management — committee substitute recommended
- VOTE:** 7 ayes — Bonnen, Farrar, Alvarado, Bolton, Hamilton, Homer, Orr
0 nays
2 absent — Paxton, Thibaut
- WITNESSES:** For — Richard Cortese, Texas Farm Bureau; James Mann, Texas Pipeline Association; Deborah Summers; (*Registered, but did not testify:* Kirby Brown, Texas Wildlife Association; Marida Favia de Core Borromeo, Exotic Wildlife Association; Delbert Fore, Enterprise Products; Mark Gipson, Devon Energy; Kinnan Golemon, Shell Oil; Jim Grace, CenterPoint Energy; Shanna Igo, Texas Municipal League; Kitty-Sue Quinn, Texas Land and Mineral Owners Association; Hal Ray, Tarrant Regional Water District; Lindsay Sander, Kinder Morgan; Ben Sebree, Texas Oil and Gas Association; Bob Stout, The Woodlands Development Co. and Newland Communities Texas; Donna Warndof, Texas Independent Producers and Royalty Owners Association)

Against — (*Registered, but did not testify:* David Miller, City of Forest Hill)

On — (*Registered, but did not testify:* Kathryn DeYoung, Copano Energy & Live Oak Reserves, Inc.; Ron Kerr, Crosstex Energy Services)
- BACKGROUND:** The 80th Legislature in 2007 enacted HB 1495 by Callegari, the Landowner's Bill of Rights Act, requiring the attorney general to prepare a written statement containing a bill of rights for a property owner whose property may be condemned through eminent domain. The act requires an entity with the power of eminent domain to provide the bill of rights document to a landowner before entering into negotiations for the person's property.
- DIGEST:** CSHB 2685 would require an entity to provide a copy of the landowner's bill of rights statement to a landowner before or at the same time the entity first represented that the entity possessed the power of eminent domain.

An entity would have to provide a copy of the bill of rights at least seven days before making a final offer to purchase a landowner's property.

The bill also would require the Attorney General's Office to prepare a new landowner's bill of rights under existing codes to reflect any changes made by the 81st Legislature and with input from stakeholders. The statement would have to be drafted in plain language.

The bill would take effect January 15, 2010.

**SUPPORTERS
SAY:**

CSHB 2685 would address certain issues that have arisen with implementation of the landowner's bill of rights, enacted in 2007 by HB 1495 by Callegari. Since the bill was passed, some entities attempting to acquire property have been distributing the bill of rights too early in the negotiation process as a matter of fulfilling the requirement. This has sometimes caused unease in landowners who received the bill of rights but then no offer from the entity to purchase property. The bill would address this issue by creating a window of time for delivering the bill of rights of no earlier than when an entity first suggested it may exercise eminent domain and no later than seven days before an initial offer was made.

The bill also would revise the document to make it more accessible to property owners who may not be versed at reading technical language. The revised version would include stakeholder input and would be written in plain language, making it more understandable for those who most need the information the document provides.

**OPPONENTS
SAY:**

CSHB 2685 may not leave property owners enough time to review the bill of rights document. While it is not ideal to deliver the document too far in advance of making an initial offer on a property, the bill of rights should be issued far enough in advance to ensure property owners ample opportunity to thoroughly review and understand the complex proceedings associated with eminent domain. Requiring the bill of rights to be distributed at least 30 days before the initial offer may be more appropriate.

Further, the bill would retain the provision for condemning entities to deliver the bill of rights through first-class mail. First class mail provides no guarantee that an owner received the document. Entities should have to send the document via certified or registered mail.